

REMARKS

Applicant has received and carefully reviewed the Decision on Appeal of the Board, in which claims 13 and 15-20 are pending, claims 13 and 15-17 have been rejected, and claims 18-20 have been allowed. The Board affirmed the rejection of claims 13 and 15-17 on a new ground. Favorable consideration of the following remarks is respectfully requested.

Claim 13 has been amended to recite an opening at the distal end of the elongate shaft fluidly connected to the lumen of the shaft, support for which may be found, for example, in Figure 8. Claims 21-26 have been added. Support for these claims may be found, for example, in Figures 4 and 6 and in paragraphs 32 and 33 of the specification as published. No new matter has been added.

The Board concluded that claims 13 and 15-17 were unpatentable over Alchas (U.S. Patent No. 5,030,210) in view of Person et al. (U.S. Patent No. 5,807,349) under 35 U.S.C. §103(a). Applicant respectfully traverses the rejection.

Claim 13 has been amended to recite “an elongate shaft having a distal end and a proximal end, the elongate shaft having an outer surface and an inner surface, the inner surface defining a lumen extending through the elongate shaft fluidly connected to an opening at the distal end of the elongate shaft.”

Both Alchas and Person teach catheters having a closed distal end with valves that are used for aspiration or infusion of fluid. See front pages of both patents. Providing a distal opening, used for example to allow the catheter to be advanced over a guidewire, renders both pieces of art unfit for their primary purpose of selectively providing fluid flow through their respective valves because no fluid will pass through a valve when there is an open distal end. Moreover, neither piece of art teaches a catheter having a valve and an open distal end.

Because all claim limitations must be considered (and neither Alchas nor Person teach the open distal end as claimed), and because modifying either reference with an open distal end renders them unsatisfactory for their intended purposes, Applicant submits that claim 13, as amended, is allowable over the cited art. As claims 14-17 and 21-26 depend from claim 13 and contain additional elements, Applicant submits that these claims are in condition for allowance as well.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

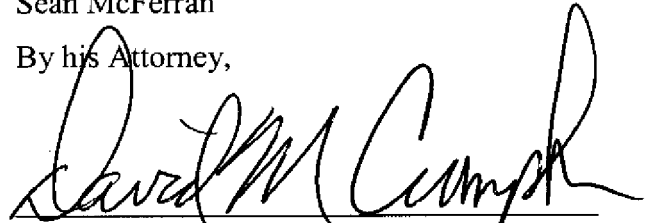
Respectfully submitted,

Sean McFerran

By his Attorney,

Date: _____

2/18/09

A handwritten signature in black ink, appearing to read "David M. Crompton", written over a horizontal line.

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